IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13901 of 2004

Between:

Yarramsetti Appalakonda, s/o Konda,

Aged about 66 years,
r/o Tutipala Village, Makavarapupalem (Mandal),

Visakhapatnam District.

..... PETITIONER

AND

1 The Joint Collector, Visakhapatnam, Visakhapatnam District.
2 The Mandal Revenue Officer, Makavarapupalem Mandal,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the proceedings of the 1st respondent in RC.No.2344/2001/E3 dt.8-12-2003 thereby cancelling the assignment of land in Sy.No.493/2, 503/3, 510/7, 510/8 and 510/9 of Tutipala Village, Makavarapupalem Mandal, District Visakhapatnam as arbitrary, illegal and violative of principles of natural justice and consequently direct the respondents not to interfere peaceful possession and enjoyment of the lands mentioned above.

Counsel for the Petitioner: MR.B.SOMASEKHAR

Counsel for the Respondents: GP FOR REVENUE

GP FOR ASSIGNMENT

The Court at the admission stage made the following :

ORDER:

The petitioner is the resident of Tutipala village, Makavarapupalem Mandal of Vishakapatnam district. He assails the proceedings of the first respondent being RC.No.2344/2001/E.3, dated 08-12-2003 whereby and whereunder the first respondent cancelled the D.form pattas given to the petitioner herein in respect of the lands in S.Nos.493/2 (Acs 3-58), 509/3 (Acs 0-86), 510/7 (Acs 0-66), 510/8 (Acs 1-19), 510/9 (Ac 0-25) total admeasuring Acs.6.54 on the ground that D.form pattas were granted in contravention of relevant assignment rules and are void. The pattas were also cancelled on the ground that the petitioner herein misrepresented and obtained D.form pattas. It is the case of the petitioner that though the land was assigned to him, the Joint Collector initiated action against his sons and two others without issuing any notice to the petitioner, and therefore the impugned order is unsustainable.

A reading of the order would show that the Joint Collector issued notice to the family members of the petitioner who contended that the lands in Sy.No.493/2, 509/3, 510/7 to 9 of Tutipala village were assigned to the family members and that they were continuously in occupation of the land. During the course of the enquiry it appears, it was also brought to the notice of the Joint Collector that the petitioner was assigned land in excess of the eligibility area. Therefore, the impugned order came to be passed directing the Mandal Revenue Officer to resume the lands admeasuring Acs.6.54.

The Joint Collector exercised power under Board Standing Orders (BSO)-15 (18) and cancelled the pattas on the ground of misrepresentation. In such case, especially when the petitioner approached this Court after lapse of about 7 months, this Court is not inclined to decide the issue raised in the writ petition. However, liberty is given to the petitioner to file an appeal before the Commissioner of Land Revenue/Commissioner for Appeals in the office of the Chief Commissioner of Land Administration within a period of two weeks from the date of receipt of this order. It is also open to the petitioner to obtain appropriate orders. To enable to do so, there shall be status quo for a period of three weeks. Be it recorded that though the petitioner is not a party before the Joint Collector, it is always open to him, as aggrieved party, to prefer an appeal or revision before the Commissioner for Appeals.

The writ petition, with the above observation, is disposed of.

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(V.V.S.RAO, J)

17-08-2004

vs

To

1 The Joint Collector, Visakhapatnam, Visakhapatnam District.
2 The Mandal Revenue Officer, Makavarapupalem Mandal, Visakhapatnam.

3 Two CCs to the G.P for Revenue, High Court Buildings, Hyderabad (O.U.T).

4 Two CD copies.

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HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13901 OF 2004

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Dated: 17-08-2004